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Entered on Docket

August 20, 2007

GLORIA L. FRANKLIN, CLERK
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

Signed and Filed: August 17, 2007

THOMAS E. CARLSON
U.S. Bankruptcy Judge

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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

In re

SOPHIE H. NG

Debtor.

Case No. 06-30904

Chapter 11

Hon. THOMAS E. CARLSON

**ORDER AUTHORIZING TRUSTEE TO
SELL CLAY PROPERTY AND 21st
AVENUE PROPERTY FREE AND
CLEAR OF LIENS AND INTERESTS**

Date: August 3, 2007

Time: 10:30 a.m.

Place: 235 Pine Street

Courtroom 23

San Francisco, CA

On August 3, 2007, a hearing was held on the Motion to Sell Clay Property and 21st Avenue Property Free and Clear of Liens and Interests filed by Janina M. Elder, Chapter 11 Trustee of the estate of the above-named Debtor. Jeffrey L. Fillerup appeared on behalf of the Trustee. James Attridge appeared on behalf of Patricia Hewlett. Other appearances are noted in the record.

The Court considered the Notice, Motion, the Memorandum of Points of Authorities, the declarations filed in support thereof, the opposition filed by Patricia Hewlett, the reply

1 memorandum filed by the Trustee and having considered the arguments and statements made at
2 the hearing, it appearing from those documents that notice has been adequate and good cause
3 appearing, it is

4 ORDERED as follows:

5 1. The Trustee is authorized to sell the property commonly known as 1385 Clay
6 Street, San Francisco, California, more particularly described in the Legal Description attached
7 as Exhibit A (the "Clay Property"), to the highest and best bidder in accordance with auction
8 procedures to be set by the Trustee and approved by the Court.

9 2. The sale of the Clay Property shall be free and clear of the following liens:

10 a. A Deed of Trust recorded in the Official Records on November 3, 2003 in
11 favor of United Commercial Bank in the amount of \$2,150,000 as Instrument No. 2003-
12 H578650-00 and assigned to U.F. Service Corporation as Trustee;

13 b. A Deed of Trust recorded in the Official Records on December 5, 2003 in
14 favor of Edward Tunney, Ann Marie Tunney, Anne Fisher and Lombard Street Loan Co.,
15 in the amount of \$600,000 as Instrument No. 2003-H607840-00 and assigned to Chicago
16 Title Company as Trustee. An assignment of a 1/8 interest in the Deed of Trust from
17 Lombard Street Loan Co. to Pat Gregor was recorded on December 18, 2003. An
18 assignment of a 1/16 interest in the Deed of Trust from Lombard Street Loan Co. to
19 Catherine P. Howe and an assignment of a 1/16 interest in the Deed of Trust from
20 Lombard Street Loan Co. to Gary P. LaGree were recorded on January 29, 2004;

21 c. A Deed of Trust recorded in the Official Records on December 5, 2003 in
22 favor of Ward Realty and Lombard Street Loan Co. in the amount of \$60,000 as
23 Instrument No. 2003-H606841-00 and assigned to Chicago Title Company as Trustee. The
24 records reflect that, on February 8, 2005, Lombard Street Loan Co. assigned a
25 30,000/60,000 interest in the Deed of Trust to John Kalayjian;

26 d. A Financing Statement recorded by United Commercial Bank on March 5,
27 2004 as Instrument No. 2004-H670769-00;

28 e. An Abstract of Judgment recorded in the Official Records on February 24,

1 2005 in favor of Nick Meyers in the amount of \$3,070 as Instrument No. 2005-H910139-
2 00;

3 f. An Abstract of Judgment recorded in the Official Records on March 30,
4 2005 in favor of Satoshi Miyauchi in the amount of \$1,989.25 as Instrument No. 2005-
5 H929839-00;

6 g. A Deed of Trust recorded in the Official Records on January 17, 2006 in
7 favor of Lombard Street Loan Co. in the amount of \$26,920 as Instrument No. 2006-
8 I113000-00 and assigned to Fidelity National Title Company as Trustee; and

9 h. A Deed of Trust recorded in the Official Records on January 17, 2006 in
10 favor of Lombard Street Loan Co. in the amount of \$50,000 as Instrument No. 2006-
11 I113001-00 and assigned to Fidelity National Title Company as Trustee. An assignment of
12 the Deed of Trust to Lombard Street Employees Plan was recorded on May 2, 2006.

13 3. Except to the extent paid from escrow, the liens listed in Paragraph 2(a)-(h) above,
14 if and to the extent valid, shall reattach to the proceeds of sale from the Clay Property, in the same
15 amount, and to the same extent, validity and priority as they attached to the Clay Property.

16 4. The Trustee is authorized to pay to any lienholder against the Clay Property,
17 whether from the escrow for the sale of the Clay Property or otherwise, the undisputed amount
18 secured by any lien against the Clay Property.

19 5. The sale of the Clay Property shall be free and clear of the claim by Patricia
20 Hewlett as set forth in the proof of claim filed by Ms. Hewlett on January 19, 2007 pursuant to
21 Sections 363(f)(4) and 363(f)(5) of the Bankruptcy Code. However, Ms. Hewlett may submit
22 an offer to purchase the Clay Property along with other bidders and in accordance with the
23 auction procedures set by the Trustee and approved by the Court.

24 6. Patricia Hewlett shall cooperate with the Trustee in the Trustee's marketing and
25 sale of the Clay Property to bidders and potential bidders, and Ms. Hewlett shall provide the
26 Trustee or her broker with documents necessary to market the Clay Property.

27 7. The Trustee is authorized to sell the property commonly known as 232 21st
28 Avenue, San Francisco, California, more particularly described in the Legal Description

1 attached as Exhibit B (the "21st Property"), to the highest and best bidder in accordance with
2 auction procedures to be set by the Trustee and approved by the Court.

3 8. The sale of the 21st Property shall be free and clear of the following liens:

4 a. A Deed of Trust recorded in the Official Records on October 1, 2002 in
5 favor of Imperial Capital Bank in the amount of \$855,000 as Instrument No. 2002-
6 H261178-00 and assigned to S.B.S Trust Deed Network as Trustee;

7 b. A Deed of Trust recorded in the Official Records on December 18, 2002 in
8 favor of CMR Mortgage Fund LLC in the amount of \$150,000 as Instrument No. 2002-
9 H313445-00 and assigned to California Mortgage and Realty, Inc. as Trustee. The Official
10 Records reflect that the Deed of Trust has been assigned to Pensco Trust Co. Custodian
11 FBO David Choo IRA Ch107;

12 c. A Deed of Trust recorded in the Official Records on October 30, 2003 in
13 favor of Edward Tunney, Ann Marie Tunney, Anne Fisher and Lombard Street Loan Co.,
14 in the amount of \$600,000 as Instrument No. 2003-H575574-00 and assigned to Chicago
15 Title Company as Trustee. An assignment of a 1/8 interest in the Deed of Trust from
16 Lombard Street Loan Co. to Pat Gregor was recorded on December 18, 2003. An
17 assignment of a 1/16 interest in the Deed of Trust from Lombard Street Loan Co. to
18 Catherine P. Howe and an assignment of a 1/16 interest in the Deed of Trust from
19 Lombard Street Loan Co. to Gary P. LaGree were recorded on January 29, 2004;

20 d. A Deed of Trust recorded in the Official Records on October 30, 2003 in
21 favor of Ward Realty and Lombard Street Loan Co. in the amount of \$60,000 as
22 Instrument No. 2003-H575575-00 and assigned to Chicago Title Company as Trustee. The
23 records reflect that, on February 8, 2005, Lombard Street Loan Co. assigned a
24 30,000/60,000 interest in the Deed of Trust to John Kalayjian;

25 e. An Abstract of Judgment recorded in the Official Records on February 24,
26 2005 in favor of Nick Meyers in the amount of \$3,070 as Instrument No. 2005-H910139-
27 00;

28 f. An Abstract of Judgment recorded in the Official Records on March 30,

1 2005 in favor of Satoshi Miyauchi in the amount of \$1,989.25 as Instrument No. 2005-
2 H929839-00;

3 g. A Deed of Trust recorded in the Official Records on January 17, 2006 in
4 favor of Lombard Street Loan Co. in the amount of \$26,920 as Instrument No. 2006-
5 I112998-00 and assigned to Fidelity National Title Company as Trustee; and

6 h. A Deed of Trust recorded in the Official Records on January 17, 2006 in
7 favor of Lombard Street Loan Co. in the amount of \$50,000 as Instrument No. 2006-
8 I112999-00 and assigned to Fidelity National Title Company as Trustee. An assignment of
9 the Deed of Trust to Lombard Street Employees Plan was recorded on May 2, 2006.

10 9. Except to the extent paid from escrow, the liens listed in Paragraph 8(a)-(h) above,
11 if and to the extent valid, shall reattach to the proceeds of sale from the 21st Property, in the same
12 amount, and to the same extent, validity and priority as they attached to the 21st Property.

13 10. The Trustee is authorized to pay to any lienholder against the 21st Property,
14 whether from the escrow for the sale of the 21st Property or otherwise, the undisputed amount
15 secured by any lien against the 21st Property.

16 11. In the event payoff demands are not timely received or not agreed to by the
17 Trustee, the title company utilized by the Trustee is authorized to pay to the Trustee any net
18 proceeds of sale applicable to lienholder in paragraph 2(a)-(h) above and paragraph 8(a)-(h)
19 above.

20 12. At a later date, on an ex parte basis, the Trustee shall apply to the Court for an
21 order identifying the buyer and purchase price for the Clay Property and the 21st Property and
22 authorizing the sale(s) to the specified buyer(s) in accordance with the terms of this Order.

23 13. The Trustee is authorized to take any and all steps and execute any and all
24 documents necessary or appropriate to carry out the intents and purposes of this Order.

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Title No. 07-**36903601**-RG
Locate No. CACTI7738-7741-2370-0036903601

LEGAL DESCRIPTION

EXHIBIT "A"

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SAN FRANCISCO, COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

COMMENCING at the point of intersection of the Southerly line of Clay Street and the Easterly line of Leavenworth Street; running thence Easterly along said line of Clay Street 100 feet; thence at a right angle Southerly 35 feet 6 inches; thence at a right angle Westerly 100 feet to the Easterly line of Leavenworth Street; thence at a right angle Northerly along said line of Leavenworth Street 35 feet 6 inches to the point of commencement.

BEING portion of 50 Vara Block No. 246.

APN: Lot 29, Block 220

Title No. 07-36903536-RG
Locate No. CACTI7738-7741-2370-0036903536

LEGAL DESCRIPTION

EXHIBIT "A"

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SAN FRANCISCO, COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

BEGINNING at a point on the Easterly line of Twenty-first Avenue, distant thereon 175 feet Southerly from the Southerly line of California Street; running thence Southerly along the Easterly line of Twenty-first Avenue 25 feet; thence at a right angle Easterly 120 feet; thence at a right angle Northerly 25 feet; thence at a right angle Westerly 120 feet to the point of beginning.

BEING a portion of Outside Land Block No. 162.

APN: Lot 035, Block 1413

*****END OF ORDER*****

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